

89TH CONGRESS } HOUSE OF REPRESENTATIVES } REPORT  
1st Session } No. 184

FURTHER AMENDING THE REORGANIZATION ACT OF 1949

MARCH 17, 1965.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DAWSON, from the Committee on Government Operations, submitted the following.

REPORT

[To accompany H.R. 4623]

The Committee on Government Operations, to whom was referred the bill (H.R. 4623) further amending the Reorganization Act of 1949, as amended, to eliminate the expiration date for the authority of the President to submit reorganization plans to the Congress, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

H.R. 4623 was introduced by the chairman of the Committee on Government Operations at the request of the President to eliminate the expiration date of (and thereby make permanent) the authority provided in the Reorganization Act of 1949 for the President to transmit to the Congress reorganization plans. Such plans take effect unless a resolution of disapproval is passed by either the House or the Senate within 60 days from the date of transmittal. The current authority will expire on June 1, 1965.

Subsection (b) of section 5 of the act as passed in 1949 (Public Law 109 of the 81st Cong., see text in appendix) reads as follows:

(b) No provision contained in a reorganization plan shall take effect unless the plan is transmitted to the Congress before April 1, 1953.

Since then, the authority has been extended by the Congress for varying periods of approximately 2 years' duration with occasions when no authority existed at all. This subsection will be repealed by the instant bill, leaving no time limitations on the President's authority. No other substantive changes of any kind in the Reorganization Act, as amended, are being here made. The designation

(a) of section 5 becomes unnecessary with the deletion of subsection (b); therefore, the designation (a) will be eliminated. This affects only the enumeration of subsections and not the language of subsection (a).

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING A DRAFT OF PROPOSED LEGISLATION ENTITLED "A BILL TO FURTHER AMEND SECTION 5 OF THE REORGANIZATION ACT OF 1949"

THE WHITE HOUSE,  
Washington, February 3, 1965.

Hon. JOHN W. McCORMACK,  
*Speaker of the House of Representatives, Washington, D.C.*

DEAR MR. SPEAKER: In my recent budget message I stated that "I will ask that permanent reorganization authority be granted to the President to initiate improvements in Government organization, subject to the disapproval of the Congress."

Accordingly, there is forwarded herewith a draft of legislation to further amend section 5 of the Reorganization Act of 1949. The bill would eliminate the expiration date for the authority to transmit reorganization plans to the Congress under the act.

Under section 2(a) of the Reorganization Act of 1949, the President has a duty to "examine and from time to time reexamine the organization of all agencies of the Government and \* \* \* determine what changes therein are necessary \* \* \*." This responsibility under the statute is permanent. However, the authority to transmit reorganization plans to effect changes in the Government's structure has been limited to specified periods. The Congress has periodically extended that authority and last year renewed it until June 1, 1965.

With only a few lapses since 1932, authority generally similar to that conferred by the present Reorganization Act has been available to the Presidents then in office. The usefulness of the authority to transmit reorganization plans to the Congress and the continuing need for such authority to carry out fully the purposes of the Reorganization Act have been clearly demonstrated. The time has now come, therefore, to eliminate any expiration date with respect to that authority; the authority should be made commensurate with the responsibility of the President under the same statute.

From this authority will come benefits for the people whose government this is.

The people expect and deserve a government that is lean and fit, organized to take up new challenges and able to surmount them. Reorganization can mean a streamlined leadership, ready to do more in less time for the best interests of all the people.

Reorganization authority is not a whim or a fancy. It is the modern approach to the hard, sticky problems of the present and the future. Government has a responsibility to

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its citizens to administer their business with dispatch, enthusiasm, and effectiveness.

The Congress itself recognizes these ideals, and has many times approved the ideas and hopes of this request. It is in that spirit of the Congress I respectfully urge the Congress to an early and favorable consideration of the proposed legislation.

Sincerely,

LYNDON B. JOHNSON.

A BILL To further amend section 5 of the Reorganization Act of 1949

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 5 of the Reorganization Act of 1949 (63 Stat. 205), as amended, is hereby further amended by repealing subsection (b) thereof and by deleting the subsection designation "(a)".*

BACKGROUND

The Reorganization Act of 1949 places upon the President the duty of periodically examining and reexamining all agencies of the Government and determining what changes are necessary to accomplish the following purposes of the act:

- (1) To promote the better execution of the laws, the more effective management of the executive branch of the Government and of its agencies and functions, and the expeditious administration of the public business;
- (2) To reduce expenditures and promote economy, to the fullest extent consistent with the efficient operation of the Government;
- (3) To increase the efficiency of the operations of the Government to the fullest extent practicable;
- (4) To group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;
- (5) To reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and
- (6) To eliminate overlapping and duplication of effort.

It also makes a declaration by the Congress that the public interest demands that the above-stated purposes be carried out; that these purposes may be accomplished in great measure by utilizing the provisions of the act; and by proceeding in this manner these purposes can be carried out more speedily than by the enactment of specific legislation.

The authority granted under the Reorganization Act of 1949 to submit reorganization plans to the Congress has been given to the President in various forms since 1932. It is based on a demonstrated need that reorganization of the many departments, agencies, and bureaus of the executive branch must be made from time to time so that Government may carry out its purposes in an efficient and economical way. The act provides a tool whereby the President, with the approval of the Congress, may make such reorganizations as are warranted to achieve this desirable objective.

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This committee, in reporting the 1949 act, stated:

\* \* \* there is an ever-present need for making such change in the organization of executive agencies as will make the executive branch of the Government more manageable, promote better coordination in the development and execution of Government programs by removing sources of confusing and conflicting policies, minimize the confusion encountered by a citizen in dealing with scattered and overlapping agencies and facilitate the conduct of his business with the Government, and otherwise promote efficiency and economy. For the last half a century one President after another has called the attention of the Congress to the need for reorganizing the executive branch. This need has increased as the role of the Government has been enlarged and as the number and size of Government programs and agencies have been correspondingly increased. Unanimity of opinion appears to have existed for many years that corrective measures with respect to executive organization are needed.

Many reorganization plans have been put into effect since that time but none of these could be expected to provide a final and permanent arrangement for any agency. Functions change, new methods are developed, bureaucratic structures become obsolete, new laws are passed. Close attention must always be paid to organization.

The Reorganization Act of 1949 was more comprehensive than previous legislation and was recommended strongly by the first Hoover Commission on Organization of the Executive Branch of the Government which was still in existence at the time the bill was considered by the Congress.

The act and its predecessors admittedly reverse the usual legislative process by allowing the President to submit plans for reorganization which go into effect unless disapproved by the Congress within 60 days. This once unique method of legislating has become more and more used by the Congress in recent years in fields other than reorganization.<sup>1</sup> But this method is peculiarly useful in Government reorganization as the Congress has continually agreed. In its 1949 report, our committee also stated:

\* \* \* experience has demonstrated that substantial progress in reorganizing the executive branch can come about only under general authorizing legislation enacted by the Congress. The Congress, of course, has made and will make selected changes in the organization of the executive branch; but, as many Members of the Congress have stated, it is not feasible to enact far-reaching changes in organization permeating widely through the executive branch by means of direct legislation affecting specific agencies.

We include in this report a chart showing actions by this committee, by the House and the Senate on reorganization plans submitted by the President in 1961, 1962, and 1963. No plans were submitted in 1964.

<sup>1</sup> See Congressional Record for Apr. 9, 1963, p. 5590, for a list of provisions of Federal law relating to programs or activities which became effective if not disapproved or rejected by the Congress within a prescribed time.

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*Action by the Committees on Government Operations, the House, and the Senate*

ACTION ON 1961 REORGANIZATION PLANS

| Plan   | Disapproval resolutions | Agency                              | Date of message | 60th day | Reported by House committee | Date and action of House                              | Vote on disapproval resolutions | Date and action of Senate | Plan became effective |
|--------|-------------------------|-------------------------------------|-----------------|----------|-----------------------------|---|---------------------------------|---------------------------|-----------------------|
| No. 1. | H. Res. 302.            | Securities and Exchange Commission. | Apr. 27         | June 27  | June 12 (H. Rept. 509).     | Approved 1 June 15.                                   | 176 yeas; 212 nays.             | Vetoed June 21.           |                       |
| No. 2. | H. Res. 303.            | Federal Communications Commission.  | do              | do       | June 1 (H. Rept. 446).      | Vetoed 1 June 15.                                     | 323 yeas; 77 nays.              | None.                     |                       |
| No. 3. | H. Res. 304.            | Civil Aeronautics Board.            | May 3           | July 3   | June 12 (H. Rept. 510).     | Approved June 20.                                     | 178 yeas; 213 nays.             | Approved June 29.         | July 3, 1961          |
| No. 4. | H. Res. 305.            | Federal Trade Commission.           | May 9           | July 9   | June 12 (H. Rept. 511).     | do  | 172 yeas; 221 nays.             | do.                       | July 8, 1961          |
| No. 5. | H. Res. 328.            | National Labor Relations Board.     | May 24          | July 23  | June 26 (H. Rept. 576).     | Vetoed July 20.                                       | 231 yeas; 179 nays.             | None.                     |                       |
| No. 6. | H. Res. 335.            | Home Loan Bank Board.               | June 12         | Aug. 12  | None.                       | Discharge resolution defeated. Plan approved Aug. 3.  | Voice vote.                     | Approved Aug. 3.          | Aug. 11, 1961         |
| No. 7. | H. Res. 336.            | Maritime functions.                 | do              | do       | do.                         | Discharge resolution defeated. Plan approved July 20. | 184 yeas; 218 nays.             | Approved Aug. 10.         | Do.                   |

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|        |              |                                   |         |        |                          |                  |                     |                             |              |
|--------|--------------|-----------------------------------|---------|--------|--------------------------|------------------|---------------------|-----------------------------|--------------|
| No. 1. | H. Res. 530. | Department of Urban Affairs.      | Jan. 30 | Apr. 1 | Feb. 15 (H. Rept. 1360). | Vetoed Feb. 12.  | 264 yeas; 150 nays. | Motion to discharge failed. |              |
| No. 2. | H. Res. 595. | Office of Science and Technology. | Mar. 29 | June 8 | Apr. 19 (H. Rept. 1635). | Approved May 16. | Voice vote.         | None.                       | June 8, 1962 |

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|        |              |  |        |         |                         |       |       |       |               |
|--------|--------------|--|--------|---------|-------------------------|-------|-------|-------|---------------|
| No. 1. | H. Res. 372. | Franklin D. Roosevelt Library and General Services Administration. | May 27 | July 27 | June 19 (H. Rept. 422). | None. | None. | None. | July 27, 1963 |
|--------|--------------|--|--------|---------|-------------------------|-------|-------|-------|---------------|

<sup>1</sup> Legislation enacted along same lines. See Public Law 87-192 and Public Law 87-592.

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GENERAL STATEMENT

The objectives of the Reorganization Act and the procedural variation that it provides have been repeatedly endorsed by the Congress. The act has stood the test of time and has proved its value. Changes, however, have been made since 1949. When originally enacted in that year, the act contained a provision that required a constitutional (authorized) majority of all Members of either House or Senate to veto a plan. In 1957 this was changed to a simple majority of either House, making it easier for Congress to reject a plan it did not favor. In 1963 the bill was amended to prevent the creation of new departments by reorganization plan.

It is now proposed to correct a glaring defect in the legislation by making permanent the authority given to the President for 2-year periods. The extensions heretofore granted have been neither even nor always predictable. There have been periods when no authority was available. This has had a bad effect on Presidential planning for executive reorganizations and on the timing of the submission of reorganization plans. From June 1, 1959, to April 7, 1961, the authority to submit plans lapsed due to inaction by the Congress. Likewise, from June 1, 1963, to July 2, 1964, no authority was available for the same reason. It must be said here, however, that this fault does not lie with the House inasmuch as this body has always been diligent about the timely extensions of the act.

By recommending that the authority contained in the Reorganization Act be made permanent, the committee reiterates its recognition of the significant reorganizations and consequent economies that have resulted from the use of the act and its faith that this tool will prove useful and beneficial to our present President and to future Presidents in the difficult task of coordination and systematization of our gigantic executive branch.

The permanent extension of authority will by no means diminish this committee's vigor in carefully scrutinizing all reorganization plans. The committee has recommended the rejection of plans that it believed were defective in the terms in which they were drawn and others that it believed would not achieve the objectives of the Reorganization Act. In many instances the committee has requested the opinion of other committees of the House where the agencies concerned fell within their jurisdiction but, of course, always reserving the right to make our own final judgment on a plan. On at least one occasion we rejected a plan, rewrote it as legislation, and obtained its passage by the Congress. In all, the system developed under the Reorganization Act has worked out very well and the prerogatives of the Congress have been carefully preserved.

It should be noted that since 1957, reorganization plans may be defeated by a simple majority of the Members present and voting in either House. This change, for practical purposes, rendered unnecessary the time limitation which was put in the act when a constitutional majority of either House was required to defeat a plan. The effect of the time limitation was to allow a simple majority of either House, by refusing to extend the act, to make it impossible for the President to submit any plans. Under the law as it now exists, when a simple majority may defeat all plans sent to the Congress, the danger of executive domination has been practically eliminated.

Of course, the existence of the Reorganization Act of 1949 does not and has not foreclosed the Congress from taking the course of direct legislation in any aspect of governmental reorganization. A study made by our Subcommittee on Executive and Legislative Reorganization lists the reorganizations by plan and those by statute from 1945 through 1962. It shows that during that period Congress enacted 153 statutes each of which, in a greater or less degree, resulted in a measure of executive reorganization, while the Presidents during the same period submitted 74 reorganization plans of which 52 became law.<sup>2</sup>

STATEMENT OF HAROLD SEIDMAN, ASSISTANT DIRECTOR FOR  
MANAGEMENT AND ORGANIZATION, BUREAU OF THE  
BUDGET

Mr. Chairman and members of the committee, I welcome this opportunity to appear before your subcommittee in support of H.R. 4623, a bill further amending the Reorganization Act of 1949.

As President Johnson stated in his recent budget message to the Congress: "We have neither the resources nor the right to saddle our people with unproductive and inefficient Government organization services and practices. \* \* \* We must reorganize and modernize the structure of the executive branch in order to focus responsibilities and increase efficiency." The President has also emphasized that we must bring "the public service to the highest state of readiness."

To assist him in achieving this objective, the President has recommended that his authority to transmit reorganization plans under the Reorganization Act of 1949 be made commensurate with his responsibilities under the act. Under section 2(a) of the Reorganization Act of 1949, the President has a permanent duty to "examine and from time to time reexamine the organization of all agencies of the Government and \* \* \* determine what changes therein are necessary \* \* \*." However, his authority under the same act to transmit reorganization plans to effect changes in the Government's structure has, in the past, been limited to short periods of about 2 to 4 years. Under the present law, his authority will expire on June 1, 1965. Pursuant to the President's requests, H.R. 4623 would amend the Reorganization Act of 1949 by repealing section 5(b) and thereby eliminating the expiration date for the authority to transmit reorganization plans under the act.

As early as 1949, President Truman asked Congress for a permanent grant of authority to transmit reorganization plans. As President Truman indicated in a message to the Congress in 1949: "The improving of the Government is a continuing and never-ending process. Government is a dynamic institution. Its administrative structure cannot be static. As new programs are established and old programs change in character and scope to meet the needs of the Nation, the organization of the executive branch must be

<sup>2</sup> See committee print "Reorganization by Plan and by Statute, 1945-62."

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adjusted to its changing tasks." Every subsequent President has asked Congress to extend the reorganization authority.

The first Hoover Commission on the Organization of the Executive Branch also recognized the need for permanent reorganization authority, stating that "the power of the President to prepare and transmit plans of reorganization to the Congress should not be restricted by limitations and exemptions."

Since 1949, scientific and technological progress have accelerated the pace of change. New problems have arisen and President Truman's observations are even more relevant now. The Government needs organizational flexibility to cope with problems which may require new organizational solutions, and reorganization authority will help to achieve those solutions. However, unless legislation such as H.R. 4623 is enacted, the President and the Congress, after the end of May of this year, will not be able to utilize the reorganization plan procedure which has proved its effectiveness in achieving timely improvements in the organization of the executive branch.

Over 30 years of experience with some sort of Presidential reorganization authority indicates that it is required on a continuing and permanent basis. The need for this authority will continue to be great. It is one of the essential means of insuring that the executive branch of the Government can be organized to discharge effectively and efficiently its responsibilities.

As President Johnson stated in his letter to the Speaker of the House of Representatives:

"The people expect and deserve a government that is lean and fit, organized to take up new challenges and able to surmount them. Reorganization can mean a streamlined leadership, ready to do more in less time for the best interests of all the people.

"Reorganization authority is not a whim or a fancy. It is the modern approach to the hard, sticky problems of the present and the future. Government has a responsibility to its citizens to administer their business with dispatch, enthusiasm, and effectiveness.

"The Congress itself recognizes these ideals, and has many times approved the ideas and hopes of this request."

The Reorganization Act authorizes a simplified procedure for improving the structure and management of the executive branch. Under this procedure, a reorganization plan providing for the reorganization of executive agencies and transmitted to the Congress by the President takes effect after 60 days of continuous session of Congress (as defined in the act) unless either House of Congress passes a resolution of disapproval during the 60-day period. This procedure enables the President, as the responsible head of the executive branch, to initiate improvements in executive organization, and it reserves to the Congress effective powers of review and disapproval.

The Reorganization Act of 1949, as amended, contains two titles. Title I sets forth the responsibility of the President for preparing the reorganization plans, states certain requirements and limitations controlling the contents of the plans, and provides the procedure for their taking effect. Title II consists entirely of the special rules of the Congress governing the expeditious handling of reorganization plans by the Congress.

Section 2(a) of the act states the six purposes of the reorganization procedure:

"(1) to promote the better execution of the laws, the more effective management of the executive branch of the Government and of its agencies and functions, and the expeditious administration of the public business;

"(2) to reduce expenditures and promote economy, to the fullest extent consistent with the efficient operation of the Government;

"(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

"(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

"(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

"(6) to eliminate overlapping and duplication of effort."

The desirability of these objectives is obvious. Subsection (b) of section 2 states:

"(b) The Congress declares that the public interest demands the carrying out of the purposes specified in subsection (a) and that such purposes may be accomplished in great measure by proceeding under the provisions of this Act, and can be accomplished more speedily thereby than by the enactment of specific legislation."

Accordingly, section 2 not only sets forth the objectives to be sought by the Reorganization Act but points out that they can be accomplished, and accomplished more speedily under the reorganization plan procedure.

The Reorganization Act specifically authorizes the undertaking of five basic types of "reorganizations" by reorganization plan. Those are: (1) transfer, (2) consolidation, (3) coordination, or (4) abolition of the whole or any part of any agency or of the functions of any agency, and (5) the authorization of any officer to delegate any of his functions. "Agency" is defined to mean "any executive department, commission, council, independent establishment, Government corporation, board, bureau, division, service, office, officer, authority, administration, or other establishment, in the executive branch of the Government," and any and all parts of the government of the District of Columbia except the courts.

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The Reorganization Act has become a well-accepted and proven tool for helping to keep the executive branch well organized to meet its current needs and for attacking the problems of ineffectiveness, inefficiency, or uneconomical operations of Government. It affords a useful, expeditious, and successful procedure by which the President may present, and the Congress may review, proposals for the reorganization of agencies and activities of the executive branch of the Government.

The cooperative executive-legislative approach authorized in the Reorganization Act was adopted after long experience had demonstrated that improvements in organization were difficult to achieve when the sole way of correcting defects was to rely upon the passage of specific legislation. Improvements were long delayed and often overdue when a reorganization contained in a bill had to pursue its course through the legislative machinery and compete for attention with urgent substantive legislation. The Reorganization Act permits an alternative, or supplemental, way of approaching this problem, and it does so by clearly placing the responsibility for initiating improvements upon the President. In addition, it is an approach which provides ample safeguards for the rights of anyone who wishes to be heard for or against any particular proposed change.

The provisions of the present Reorganization Act have been developed over the past 33 years. The first statute was undoubtedly experimental; successive and successful improvements have been made since then. Presidential initiation of organizational improvements subject to congressional review was authorized by the Economy Act of 1932. Under that act, the President could provide for certain reorganizations of executive agencies by Executive orders which had to lie before the Congress for 60 days subject to disapproval by a simple majority of either House of the Congress.

In the Economy Act of 1933 changes were made to strengthen the procedure. It provided that Presidential orders making reorganizations would automatically take effect after lying before the Congress for 60 days. The Congress could prevent such an order from taking effect only by enacting specific legislation. The reorganization provisions of the Economy Act of 1933 remained in effect until March 19, 1935, during which time 8 principal and over 15 subsidiary orders took effect and none was disapproved.

This cooperative executive-legislative approach to reorganization was revived with the enactment of the Reorganization Act of 1939. That act authorized reorganization plans as we know them today.

Reorganization plans, prepared by the President, were transmitted to the Congress and became effective after 60 days unless disapproved by a concurrent resolution passed by both Houses of the Congress. Five major reorganization plans were transmitted in 1939 and 1940 and all took effect.

During World War II, emergency powers were vested in the President to make wartime reorganizations by Executive

order without congressional review. But after the war, the Congress enacted the Reorganization Act of 1945, closely patterned after, and continuing the procedure of, the Reorganization Act of 1939. During the almost 2½ years that the 1945 act was in effect, seven reorganization plans were transmitted to the Congress; four became effective and three were disapproved.

The concurrent resolution procedure authorized by the 1939 and 1945 acts proved highly effective in those important prewar and postwar years. Those acts, however, contained a major defect which had been common in all the reorganization legislation up until that time; namely, they provided for the outright exemption of certain specified agencies and functions and the requirement for the special handling of others, thus preventing the application of the acts equally to all parts of the executive branch. Upon the recommendations of the President and the first Hoover Commission to make the reorganization plan procedure comprehensive in its scope, the Reorganization Act of 1949 contained no such exemptions or limitations. This was a major improvement in reorganization legislation. Coupled with that improvement was a change in the disapproval procedure.

The Reorganization Act of 1949 provided for congressional disapproval of a plan by the adoption of a resolution by a majority of the authorized membership of either House of the Congress. This was the so-called one-House, constitutional-majority disapproval arrangement. When the President's authority to transmit reorganization plans under the act was extended in 1957, this provision was deleted. Since that time a simple majority of either House has been able to disapprove a reorganization plan. In 1964, Congress provided that no reorganization under the act shall have the effect of " \* \* \* creating any new executive department, or abolishing or transferring an executive department or all the functions thereof, or consolidating any two or more executive departments or all the functions thereof; \* \* \*."

The period during which reorganization plans could be transmitted to the Congress under the Reorganization Act of 1949 was originally scheduled to expire March 31, 1953, but it has been extended five times and, as I mentioned earlier, now expires on June 1, 1965.

Great strides have been made since the Reorganization Act of 1949 became law on June 20, 1949. Sixty-eight reorganization plans have been transmitted to the Congress, and 49 have become effective.

Taking the broadest view, since the first Reorganization Act of 1939 became law, virtually the entire structure of the executive branch has been reshaped by changes made under the cooperative Presidential-congressional approach embodied in the Reorganization Acts. Every agency in the Executive Office of the President has had its organization affected by actions under the reorganization acts. Every executive department has benefited from organizational adjustments made by reorganization plans; likewise, the Civil Service Commission, the Housing and Home Finance

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Agency, and many of the other major independent agencies have been reorganized. Viewed thus, the reorganization plan is a vital instrument for keeping our governmental house in order. One group, President Truman's Advisory Committee on Management, said in 1952:

"We therefore think there is good reason to regard the invention and acceptance of this tool for reorganization as the greatest single enabling step toward management improvement in the Federal Government in this generation." ("Report to the President," December 1952, p. 6.)

The Reorganization Act of 1949 was enacted following the strong recommendation of the first Hoover Commission on Organization of the Executive Branch of the Government that the President be given authority to prepare and transmit plans of reorganization to the Congress. The Commission stated:

"This authority is necessary if the machinery of Government is to be made adaptable to the ever changing requirements of administration, and if efficiency is to become a continuing rather than a sporadic concern of the Federal Government."

The very first recommendation of the second Hoover Commission on December 31, 1954, was as follows:

"As a result of unanimous vote at its meeting held on November 15, 1954, the Commission recommends to the Congress that the authority of the President to file reorganization plans, which expires on April 1, 1955, be extended" ("Progress Report," p. 22).

Thus, each of the two Hoover Commissions has urged that the reorganization plan authority be continued as a means for attaining better Government organization.

Extensions of the reorganization authority have consistently been reported favorably by this committee. In its report on the 1961 extension, the committee's report stated:

"Under the rules of the House, this committee is given the responsibility of evaluating the effects of laws enacted to reorganize the executive branch of the Government and studying the operation of Government activities at all levels with a view to determining its economy and efficiency. With this responsibility always in mind the committee favorably reported the Reorganization Act of 1949 and recommended its successive extensions. It believes the act has proved a useful tool in the past and should be continued. With the modification made in 1957 requiring only a simple majority of either House to pass a disapproval resolution the powers of neither executive nor legislative branches seem to be greatly out of balance."

The President, as Chief Executive, is responsible for the efficient management of the executive branch. As the tasks of Government become steadily more exacting, and as the range of Government's activities becomes more complex in response to the needs of our times, the importance of sound organization and management assumes critical proportions.

Economy, efficiency, and clear lines of executive responsibility are central to the faithful execution of the laws. The authority to transmit plans under the Reorganization Act is an essential tool to aid the President in meeting his responsibilities.

Reorganization is a continuing necessity to insure optimum organizational arrangements for changing programs and circumstances. For these reasons, I recommend that the Congress afford continuing Reorganization Act authority by enacting H.R. 4623 into law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

SECTION 5 OF THE REORGANIZATION ACT OF 1949

(63 Stat. 205; 5 U.S.C. 133z)

LIMITATIONS ON POWERS WITH RESPECT TO REORGANIZATIONS

SEC. 5. **[(a)]** No reorganization plan shall provide for, and no reorganization under this Act shall have the effect of—

(1) creating any new executive department, or abolishing or transferring an executive department or all the functions thereof or consolidating any two or more executive departments or all the functions thereof; or

(2) continuing any agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made; or

(3) continuing any function beyond the period authorized by law for its exercise, or beyond the time when it would have terminated if the reorganization had not been made; or

(4) authorizing any agency to exercise any function which is not expressly authorized by law at the time the plan is transmitted to the Congress; or

(5) increasing the term of any office beyond that provided by law for such office; or

(6) transferring to or consolidating with any other agency the municipal government of the District of Columbia or all those functions thereof which are subject to this Act, or abolishing said government or all said functions.

**[(b)]** No provision contained in a reorganization plan shall take effect unless the plan is transmitted to the Congress before June 1, 1965.

## APPENDIX

[PUBLIC LAW 109—81ST CONGRESS, AS AMENDED]

5 U.S.C. 133z

[CHAPTER 226—1ST SESSION]

[H.R. 2361]

AN ACT To provide for the reorganization of Government agencies, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### TITLE I

#### SHORT TITLE

SECTION 1. This Act may be cited as the "Reorganization Act of 1949".

#### NEED FOR REORGANIZATIONS

SEC. 2. (a) The President shall examine and from time to time reexamine the organization of all agencies of the Government and shall determine what changes therein are necessary to accomplish the following purposes:

(1) to promote the better execution of the laws, the more effective management of the executive branch of the Government and of its agencies and functions, and the expeditious administration of the public business;

(2) to reduce expenditures and promote economy, to the fullest extent consistent with the efficient operation of the Government;

(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

(6) to eliminate overlapping and duplication of effort.

(b) The Congress declares that the public interest demands the carrying out of the purposes specified in subsection (a) and that such purposes may be accomplished in great measure by proceeding under the provisions of this Act, and can be accomplished more speedily thereby than by the enactment of specific legislation.

REORGANIZATION PLANS

SEC. 3. Whenever the President, after investigation, finds that—

- (1) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency; or
- (2) the abolition of all or any part of the functions of any agency; or
- (3) the consolidation or coordination of the whole or any part of any agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; or
- (4) the consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof; or
- (5) the authorization of any officer to delegate any of his functions; or
- (6) the abolition of the whole or any part of any agency which agency or part does not have, or upon the taking effect of the reorganization plan will not have any functions,

is necessary to accomplish one or more of the purposes of section 2(a) he shall prepare a reorganization plan for the making of the reorganizations as to which he has made findings and which he includes in the plan, and transmit such plan (bearing an identifying number) to the Congress, together with a declaration that, with respect to each reorganization included in the plan, he has found that such reorganization is necessary to accomplish one or more of the purposes of section 2(a). The delivery to both Houses shall be on the same day and shall be made to each House while it is in session. The President, in his message transmitting a reorganization plan, shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of such function, and shall specify the reduction of expenditures (itemized so far as practicable) which it is probable will be brought about by the taking effect of the reorganizations included in the plan.

OTHER CONTENTS OF PLANS

SEC. 4. Any reorganization plan transmitted by the President under section 3—

- (1) shall change, in such cases as he deems necessary, the name of any agency affected by a reorganization, and the title of its head; and shall designate the name of any agency resulting from a reorganization and the title of its head;
- (2) may include provisions for the appointment and compensation of the head and one or more other officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan such provisions are necessary. The head so provided for may be an individual or may be a commission or board with two or more members. In the case of any such appointment the term of office shall not be fixed at more than four years, the compensation shall not be at a rate in excess of that found by the President to prevail in respect of comparable

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officers in the executive branch, and, if the appointment is not under the classified civil service, it shall be by the President, by and with the advice and consent of the Senate, except that, in the case of any officer of the municipal government of the District of Columbia, it may be by the Board of Commissioners or other body or officer of such government designated in the plan;

(3) shall make provision for the transfer or other disposition of the records, property, and personnel affected by any reorganization;

(4) shall make provision for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with any function or agency affected by a reorganization, as he deems necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have such functions after the reorganization plan is effective, but such unexpended balances so transferred shall be used only for the purposes for which such appropriation was originally made;

(5) shall make provision for terminating the affairs of any agency abolished.

LIMITATIONS ON POWERS WITH RESPECT TO REORGANIZATION

SEC. 5. (a) No reorganization plan shall provide for, and no reorganization under this Act shall have the effect of—

(1) abolishing or transferring an executive department or all the functions thereof or consolidating any two or more executive departments or all the functions thereof; or

(2) continuing any agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made; or

(3) continuing any function beyond the period authorized by law for its exercise, or beyond the time when it would have terminated if the reorganization had not been made; or

(4) authorizing any agency to exercise any function which is not expressly authorized by law at the time the plan is transmitted to the Congress; or

(5) increasing the term of any office beyond that provided by law for such office; or

(6) transferring to or consolidating with any other agency the municipal government of the District of Columbia or all those functions thereof which are subject to this Act, or abolishing said government or all said functions.

(b) No provision contained in a reorganization plan shall take effect unless the plan is transmitted to the Congress before June 1 1965.

TAKING EFFECT OF REORGANIZATION

SEC. 6. (a) Except as may be otherwise provided pursuant to subsection (c) of this section, the provisions of the reorganization plan shall take effect upon the expiration of the first period of sixty calendar days, of continuous session of the Congress, following the date on which the plan is transmitted to it; but only if, between the date of transmittal and the expiration of such sixty-day period there has not

been passed by either of the two Houses a resolution stating in substance that the House does not favor the reorganization plan.

(b) For the purposes of subsection (a)—

(1) continuity of session shall be considered as broken only by an adjournment of the Congress sine die; but

(2) in the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

(c) Any provision of the plan may, under provisions contained in the plan, be made operative at a time later than the date on which the plan shall otherwise take effect.

#### DEFINITION OF "AGENCY"

SEC. 7. When used in this Act, the term "agency" means any executive department, commission, council, independent establishment, Government corporation, board, bureau, division, service, office, officer, authority, administration, or other establishment, in the executive branch of the Government, and means also any and all parts of the municipal government of the District of Columbia except the courts thereof. Such term does not include the Comptroller General of the United States or the General Accounting Office, which are a part of the legislative branch of the Government.

#### MATTERS DEEMED TO BE REORGANIZATIONS

SEC. 8. For the purposes of this Act the term "reorganization" means any transfer, consolidation, coordination, authorization, or abolition, referred to in section 3.

#### SAVING PROVISIONS

SEC. 9. (a)(1) Any statute enacted, and any regulation or other action made, prescribed, issued, granted, or performed in respect of or by any agency or function affected by a reorganization under the provisions of this Act, before the effective date of such reorganization, shall, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, have the same effect as if such reorganization had not been made; but where any such statute, regulation, or other action has vested the function in the agency from which it is removed under the plan, such function shall, insofar as it is to be exercised after the plan becomes effective, be considered as vested in the agency under which the function is placed by the plan.

(2) As used in paragraph (1) of this subsection the term "regulation or other action" means any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(b) No suit, action, or other proceeding lawfully commenced by or against the head of any agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of the taking effect of any reorganization plan under the provisions of this Act, but the court may, on motion or supplemental petition filed at any time within twelve months after such reorganization plan takes effect, showing a necessity for a sur-

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vival of such suit, action, or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the successor of such head or officer under the reorganization effected by such plan or, if there be no such successor, against such agency or officer as the President shall designate.

UNEXPENDED APPROPRIATIONS

SEC. 10. The appropriations or portions of appropriations unexpended by reason of the operation of this Act shall not be used for any purpose, but shall be impounded and returned to the Treasury.

PRINTING OF REORGANIZATION PLANS

SEC. 11. Each reorganization plan which shall take effect shall be printed in the Statutes at Large in the same volume as the public laws, and shall be printed in the Federal Register.

TITLE II

SEC. 201. The following sections of this title are enacted by the Congress:

(a) As an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in section 202); and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(b) With full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

SEC. 202. As used in this title, the term "resolution" means only a resolution of either of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the \_\_\_\_\_ does not favor the reorganization plan numbered — transmitted to Congress by the President on \_\_\_\_\_, 19\_\_\_\_.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; and does not include a resolution which specifies more than one reorganization plan.

SEC. 203. A resolution with respect to a reorganization plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

SEC. 204. (a) If the committee to which has been referred a resolution with respect to a reorganization plan has not reported it before the expiration of ten calendar days after its introduction, it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such reorganization plan which has been referred to the committee.

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(b) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same reorganization plan), and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(c) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same reorganization plan.

SEC. 205. (a) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(b) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

SEC. 206. (a) All motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a reorganization plan, and all motions to proceed to the consideration of other business, shall be decided without debate.

(b) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

Approved June 20, 1949.

### MINORITY VIEWS

H.R. 4623 would have the effect of making permanent the President's authority to submit reorganization plans to the Congress under the Reorganization Act of 1949, as amended.

The act has demonstrated its effectiveness in promoting economy and efficiency in the executive branch of the Government, and therefore the undersigned are not opposed to its extension. However, it is important that each Congress review this delegation of legislative authority and continue the power only if it deems it advisable. Therefore, we cannot agree to outright repeal of the time limitation.

The Constitution expressly vests the legislative power of the United States in the Congress and specifies that "every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States" who may then give his approval or disapproval.

The Reorganization Act of 1949, as amended, reverses this constitutional process and delegates some legislative power to the President by authorizing him to propose reorganization legislation subject to a limited right of veto in the Congress.

The Congress has agreed to this irregular procedure because the purposes of the act "can be accomplished more speedily thereby than by enactment of specific legislation." The act is thus deliberately designed to strengthen the hand of the executive in derogation of the power of Congress.

Since extensions of the act constitute surrender by the Congress of some of the legislative responsibility and jurisdiction over Federal reorganizations to the President, there has been some reluctance in granting extensions of the reorganization power in years gone by. In the face of the continual disposition of every administration to press for more executive reorganization power, the Congress needs to preserve the necessity for reviewing the operation of the law at regular intervals. If it is satisfied, a simple extension of the law is then all that is required. If it is dissatisfied, it is not then faced with the necessity of repealing, over a probable Presidential veto, a "permanent" law.

Since the enactment of the basic statute in 1949 Congress has not surrendered its legislative jurisdiction on these matters on a permanent basis. The 1949 act was given an original duration of 4 years. Since then it has been extended for no more than 2 years at a time and in 1964 was extended for about another year.

Since the Economy Act of 1932, which first provided the authority for the President to submit reorganization plans to the Congress, the procedures have often been reviewed, reevaluated, and revised. The need for these successive changes in the reorganization plan procedure made in the Economy Act of 1933, the Reorganization Acts of 1939, 1945, and 1949, demonstrates the value of periodic congressional review.

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Since 1949, the value of regular review of the legislation has further been demonstrated by the fact that following such review Congress has frequently found it necessary to amend the Reorganization Act: when the first 4-year grant of authority expired in 1953 the 2-year extensions which have since become the general rule were initiated; when the act was extended in 1957 the "constitutional majority" feature was stricken making it possible for either House to reject a plan by a simple majority; and, most recently, in 1964, an amendment was added to prevent the use of the act for the purpose of creating a new department. Thus, it is clear that the whole legislative history of the reorganization procedure has been one of experimentation and change.

Congress, in its wisdom, has even seen fit to permit the authority to lapse on occasion. The much-vaunted accomplishments under the act have been achieved under these successive temporary extensions of the act and not under a permanent grant of power.

It is argued that the President's authority to transmit reorganization plans should be made commensurate with his "permanent duty" to examine and reexamine the organization of all agencies of Government to determine what changes are necessary. These duties are incumbent on the President whether or not the authority to transmit reorganization plans is extended. It is his obligation to examine the organization of agencies of Government whether he submits reorganization plans to Congress or has reorganization legislation introduced by request. The undersigned see no inconsistency between a short-term extension of the President's reorganization authority and his "permanent duty" to examine organization and to determine upon changes. We would rather see the extension of the President's authority to transmit reorganization plans be made commensurate with the constitutional power of each House to adopt its own rules.

A resolution with respect to a reorganization plan submitted by the President under title I of the act is subject to procedures prescribed in title II. Title II is an exercise of the rulemaking power of the Senate and House of Representatives, respectively, prescribing rules of procedure different from the normal rules of the House and Senate. It is our opinion that the use of these rules should be compatible with the general proposition that the power of the House of Representatives to make its own rules may not be impaired or controlled by the rules of the preceding House or by a law passed by a prior Congress. The House should maintain its right to review the operation of all rules of the House at 2-year intervals whether they are set forth in the Reorganization Act or elsewhere.

So, it is proposed that H.R. 4623 be amended as follows:

That all after the enacting clause be stricken and the following language inserted:

"That subsection (b) of section 5 of the Reorganization Act of 1949 (63 Stat. 205) is amended by striking out 'June 1, 1965' and inserting in lieu thereof 'June 1, 1967'".

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The effect of this amendment would be to extend the President's authority under the act for only 2 years, instead of making it permanent as the bill would provide.

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